

# EXHIBIT 1

## CAUSE NO. C-5130-16-A

JOHN PETITTA	§	IN THE DISTRICT COURT OF
	§	
v.	§	
	§	
RAY R. TREY FULP III, D.O., RAY FULP	§	HIDALGO COUNTY, TEXAS
ORTHOPEDICS, P.A. d/b/a SOUTH	§	
TEXAS BACK INSTITUTE AND	§	
ORTHOPEDICS, JAVIER BARBOSA,	§	
JAVIER BARBOSA, P.A., 3M COMPANY	§	92nd JUDICIAL DISTRICT
and ARIZANT HEALTHCARE, INC.	§	
	§	

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**DEFENDANTS 3M COMPANY AND ARIZANT HEALTHCARE, INC.'S RESPONSE  
TO PLAINTIFF'S THIRD SET OF REQUESTS FOR PRODUCTION**

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COME NOW, Defendants 3M Company and Arizant Healthcare Inc. (together, "3M"), by and through their counsel, and submit this Response to Plaintiff's Third Set of Requests for Production ("Requests") (misabeled as Plaintiff's Second Request for Production). In accordance with Rule 196 of Texas Rules of Civil Procedure, 3M responds and objects as follows:

**RESPONSE AND OBJECTION TO REQUEST**

1. Produce all correspondence between 3M or its counsel and all prior or current counsel for Plaintiff regarding the Federal MDL lawsuit filed by Mr. Petitta.

**RESPONSE:** 3M has produced all correspondence between 3M's counsel and counsel for Plaintiff John Petitta regarding his federal lawsuit against 3M in the Bair Hugger MDL, except that it has not re-produced responsive correspondence that is already in the possession of Mr. Petitta's counsel of record in this case. Accordingly, 3M has not produced correspondence between its counsel and Mr. Garcia, Mr. Gomez, Mr. Farrar, Ms. Zimmerman, or Mr. Assaad. Nor has 3M produced correspondence that already has been made an exhibit to the briefing on

3M's pending motion for permanent injunction filed in the Bair Hugger MDL or the briefing on Plaintiff's pending motion for summary judgment in this Court. For the sake of clarity, 3M states that there is no correspondence directly between 3M (as opposed to its counsel) and Plaintiff John Petitta's counsel regarding the federal lawsuit.

Dated: July 8, 2019

Respectfully submitted,

*s/ Deborah E. Lewis*

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**ATTORNEYS FOR DEFENDANTS  
3M COMPANY AND ARIZANT  
HEALTHCARE, INC.**

**CERTIFICATE OF SERVICE**

I do hereby certify that a true and correct copy of the foregoing instrument was delivered to all counsel of record in accordance with the Texas Rules of Civil Procedure on this the 8th day of July, 2019.

Albert Garcia  
GARCIA & MARTINEZ, L.L.P.  
6900 North 10th Street, Suite 2  
McAllen, Texas 78504

Kyle Farrar  
FARRAR & BALL, LLP  
1010 Lamar, Suite 1600  
Houston, Texas 77002

Julian C. Gomez  
THE JULIAN C. GOMEZ LAW FIRM  
1602 Dulcinea  
Edinburg, Texas 78539

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711 W. Alabama Street  
Houston, Texas 77006

Genevieve M. Zimmerman – *Pro Hac Vice*  
MESHBESHER & SPENCE, LTD.  
1616 Park Avenue South  
Minneapolis, Minnesota 55404

*Attorneys for Plaintiff*

s/Deborah E. Lewis  
Deborah E. Lewis

# EXHIBIT 1

## Mary Young

---

**From:** Ben Gordon <bgordon@levinlaw.com>  
**Sent:** Thursday, December 22, 2016 10:53 AM  
**To:** Albert Garcia; Mary Young  
**Cc:** Adrian Martinez; Daniel Nigh; Yoli Munguia  
**Subject:** RE: Petitta v. 3M (Bair Hugger) - duplicative federal and state court filings

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

Thanks all. this confirms that we will agree to a stipulation for dismissal of the MDL action, as long as mr. Garcia is comfortable moving forward in the TX action, as indicated. Mary, we can discuss the form of that Stip. Thanks.

Ben Gordon  
*Shareholder*  
Levin, Papantonio, Thomas, Mitchell,  
Rafferty & Proctor, P.A.  
316 S. Baylen Street, Suite 600  
Pensacola, FL 32502-5996  
850.435.7091 (office)  
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**From:** Albert Garcia [mailto:[albert@garmtzlaw.com](mailto:albert@garmtzlaw.com)]  
**Sent:** Thursday, December 22, 2016 10:51 AM  
**To:** Mary Young  
**Cc:** Ben Gordon; Adrian Martinez; Daniel Nigh; Yoli Munguia  
**Subject:** Re: Petitta v. 3M (Bair Hugger) - duplicative federal and state court filings

Ms. Young,

I spoke to Mr. Nigh and we have concluded that my lawsuit will continue in Texas State District Court on behalf of Mr. Petitta. Please let me know how much time you need to file your answer.



Alberto T. Garcia III  
Garcia & Martinez, L.L.P.  
6900 N. 10th Street, Suite 2  
McAllen, Texas 78504  
956-627-0455  
956-627-0487 (Fax)

On Dec 9, 2016, at 8:53 AM, Mary Young <[myoung@blackwellburke.com](mailto:myoung@blackwellburke.com)> wrote:

Good morning,  
I just spoke to Mr. Garcia's assistant who advised the Mr. Garcia is awaiting a call back from MDL counsel so that this issue can be resolved. As I mentioned to Mr. Garcia's assistant, until you all are able to confirm which case will proceed, we do not plan to take any action on behalf of 3M in response to the duplicate state court filing. I look forward to hearing from you.  
Kind regards,  
Mary

Mary S. Young  
Blackwell Burke P.A.  
431 South Seventh Street, Suite 2500  
Minneapolis, MN 55415  
Direct (612) 343-3214  
Fax (612) 343-3205

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-----Original Message-----

From: Ben Gordon [<mailto:bgordon@levinlaw.com>]  
Sent: Tuesday, November 29, 2016 10:19 PM  
To: Mary Young  
Cc: [albert@garmtzlaw.com](mailto:albert@garmtzlaw.com); [adrian@garmtzlaw.com](mailto:adrian@garmtzlaw.com); Daniel Nigh  
Subject: Re: Petitta v. 3M (Bair Hugger) - duplicative federal and state court filings

Thanks mary. I'll get with Daniel about it in the morning and figure out what needs to be done. Sorry for the delay. Hope you're well.

Ben W. Gordon, Jr.  
Shareholder  
Levin-Papantonio, P.A.

On Nov 29, 2016, at 1:50 PM, Mary Young <[myoung@blackwellburke.com](mailto:myoung@blackwellburke.com)> wrote:

Dear Counsel,

Can you please let me know where you're at with resolving this duplicate filing? As mentioned below, because this involves a state and federal court action, we would like to have it resolved right away.

Kind regards,

Mary

Mary S. Young  
Blackwell Burke P.A.  
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Fax (612) 343-3205

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-----Original Message-----

From: Ben Gordon [<mailto:bgordon@levinlaw.com>]

Sent: Tuesday, November 22, 2016 11:03 PM

To: Mary Young

Cc: [albert@garmtzlaw.com](mailto:albert@garmtzlaw.com); [adrian@garmtzlaw.com](mailto:adrian@garmtzlaw.com); Daniel Nigh

Subject: Re: Petitta v. 3M (Bair Hugger) - duplicative federal and state court filings

Mary, daniel will be following up with you and other counsel on this matter. Thanks.

Ben W. Gordon, Jr.  
Shareholder  
Levin-Papantonio, P.A.

On Nov 22, 2016, at 12:23 PM, Mary Young <[myoung@blackwellburke.com](mailto:myoung@blackwellburke.com)> wrote:

Dear Counsel,

Each of your firms has initiated a Bair Hugger lawsuit against 3M Company (see attached) on behalf of plaintiff John Petitta. These claims appear duplicative. Can you please confer with your client and determine next steps? Because one of these matters is pending in state court, I would appreciate your getting back to me no later than Monday, Nov. 28.



Kind regards,  
Mary S. Young  
Counsel for 3M

[myoung]

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<image001.gif>

<Petitta, John - BAIR HUGGER COMPLAINT.PDF> <John Petitta  
Complaint.pdf>